The Early Development of the Government of the Presidency of Fort St. George.

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Reprinted from "The Indian Antiquary,"
Vol. LVIII, 1929, *pp.* 188—191, 212—218.

Bombay:

PRINTED AT

THE BRITISH INDIA PRESS, MAZGAON.

1929.

THE EARLY DEVELOPMENT OF THE GOVERNMENT OF THE PRESIDENCY OF FORT ST. GEORGE.

BY C. S. SRINIVASACHARI, M.A.

FOR long the English system of administration, in the early days when their Indian settlements had not attained to anything like great strength, was a haphazard growth. As Kaye well remarks;[1] "We traded, we conquered, we governed. It was long before this matter of government came palpably before us. At first all that we had to do was to govern ourselves, and this we did in a very loose manner—rather according to laws of power and impulses of passion than to principles of justice and reason."

The Company's factors were subject of course to the orders of their own immediate chiefs. Surat, the earliest English factory in the country, was controlled by the Council of the factors but often the General or Commander of the Fleet had a regulating power. The factors complained that he regulated their promotion and precedence, that consultations were often held on board the ships in the roads, that the Chief of the factory signed his name after that of the chief naval officer, and that the captains of the ships sat often in their councils and interfered in their affairs.[2] With regard to the factors' relations with Indians, their disputes had to be adjusted by the tribunals of the Native powers—as instanced by the terms of Captain Best's treaty with the Mughal Viceroy of Gujarât that "in all questions, wrongs and injuries that shall be offered to us and to our nation we do receive from the judges and those that be in authority speedy justice, according to the quality of our complaints and wrongs done us, and that by delays we be not put off or wearied by time or charge." As among themselves, that is, among the English residents, justice was administered in criminal cases by virtue of a King's Commission under the Great Seal which empowered the Commissioners to punish and execute offenders by martial law—this is illustrated by a Surat record of 1616 describing the criminal proceedings which condemned a murderer to death.[3] In civil cases the President or the chief of the factory had absolute powers.

All the establishments on the Western Coast and in the interior were first subordinate to Surat; while those on the Coromandel Coast, including Madras also for some years, were subject to the factory at Bantam. Each Presidency came to be under a President and Council; and in course of time the control of the naval authorities was shaken off. The authority of the President became supreme; the Council came to possess definite functions, and by the close of the 17th century, there had grown up the nucleus of the body, that is now known as the Indian Civil Service, with the gradations of writers, factors, merchants, and senior merchants.[4]

The names of the Company's servants had to be enrolled in a regular seniority list; they could be transferred from one Presidency to another; and on occasions of emergency or when there was strife in any agency (so the subordinate factory was called) the Directors sent out one of their own number or a relative of one of their chief members to improve the affairs.

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1 *The Administration of the East India Company* (1853), p. 64.

2 Thus Kaye quotes from the *MS. India House Records* that Joseph Salbank, one of the oldest of the Surat factors, wrote home in 1617 complaining that "your proud captain Keeling towards whom I have ever carried myself genteelly, or rather more humbly than I ought to have done, should offer me that indignity as to place me under punies and younglings to whom for my years' sake I might be esteemed grandfather, yea; this he did though he never saw them to whom he gave precedence above me."

3 The condemnation of Gregory Lellington to death for the offence of manslaughter by a Surat Consultation of February, 1616, preserved in the MS. Records of the India Office, being, according to Kaye, "the earliest account of our judicial proceedings in India."

4 The Court Letters of the Company say thus:—"For the advancement of our apprentices we direct, that after they have served the first five years, they shall have £10 per annum for the last two years; and having served those two years, to be entertained one year longer as writers and have writer's salary, and having served that year to enter into the degree of factors, which otherwise would have been ten years. And knowing that a distinction of titles is in many respects necessary, we do order that when the apprentices have served their terms they be styled writers, when the writers have served their terms they be styled factors, and factors having served their terms to be styled as merchants." (P. from England, vol. I; 24th December, 1675, and *The Madras Manual of Administration* (1884, vol. I, pp. 166-167).

It was also their custom to cut down the pay of their servants when trade was slack. The Directors kept a paternal eye on their servants in India and sent out to them chaplains and books on theology. The chaplains often proved as keen traders as the factors themselves, "though they did not always command the respect of their little flocks." Pietro della Valle, visiting Surat in 1623, gives a good picture of the life of the factory; while Mandelslo, coming fifteen years later, describes in praiseful terms the life of the factory community—" the strict order observed, the deference to the President, the collegiate life of the factory, the Common Table, with the Chaplain to say grace, above all the divine service held daily and on Sundays three times "—all of which made a profound impression on him.[5]

Usually the factors got lodgings and free board at the common table. The diet and sumptuary allowances to the President often far exceeded his salary; the three senior merchants next to the Governor, who constituted the Council, might live outside the factory, and got house and table allowances of their own. The servants of the Company followed from the beginning the Portuguese practice of private trade; and the Company itself supplemented their wages by granting them an interest in the trade, and in certain cases a share in the profits; and it always protested "not against private trading, but against excessive private trading." No official records of the Presidency have been preserved prior to 1670. Madras was till 1653 subordinate to the Presidency of Bantam in Java. In 1641, shortly after its foundation, the seat of the Agency was transferred from Masulipatam to this place, which became the chief English settlement on the coast. Andrew Cogan, the first Agent, was succeeded by Francis Day, the real founder of the settlement; but he took a good share in the erection of the Fort and the colonization of the place. The establishment consisted of three factors, and one assistant. " Neither Cogan nor Day is kept in memory (in Madras) by statue, portrait or place-name. Not even the Secretariat Buildings in the Fort, the successor of the old Factory House, bear a tablet to commemorate the achievements of the joint founders of Madras."[6]

The civil establishment slowly increased in importance and the Agency began to exercise real control over the other coast factories and the small Bengal establishments then recently started. The first direct communication between Madras and the Company at home occurred in 1642–1643 " in which the Agent and the Council acquainted the Court of Directors with the absolute necessity of giving a due equipment to the Fort."[7] In 1651 orders were received not to add to the strength of the Fort, though the Agent stated that unless the Fort was strengthened their trade could not be extended. Next year the representation was repeated in even stronger terms when a war with the Dutch appeared imminent. In 1654 the Directors reduced the civil establishment to two factors, and the guard to only ten soldiers. In 1658 all the factories on the Coromandel Coast and in Bengal were made subordinate to Fort St. George.

See also clauses 11 to 22 of the Commission and Instructions given to Streynsham Master on the 16th December 1675, for the regulation of various officers from apprentices upwards. These fix the Madras Council at 6, the Agent, the Book-keeper, the Ware-house Keeper, the Choultry Justice, the Mint Master and the Purser-General or Pay Master. *Diaries of Streynsham Master* (1675-80): *Indian Records Series.*—Ed. by Sir R. C. Temple; vol. 1, pp. 206-08.

This commission also fixed the position and succession of the chief factors in the subordinate settlements and gave special directions as to the housing of the Company's servants and their training in the mode of business followed in the country.

Master prepared an indictment of Langhorne, his predecessor n the Governorship, and his government under the title of "The Character of the Government at Fort St. George from 1672 to 1677", in which he complained of the infrequency of the meetings of the Council, the mismanagement of the subordinate factories, irreverence and disregard of religion on the part of the factors, the neglect and miscarriage of the Choultry administration of Justice, the entrusting of too much of the Company's investments in the hands of *Kasi Viranna* (the chief merchant) and the useless disbursement of the Company's money. (See *Diaries of Streynsham Master*, vol. I, Introduction, pp. 64-66).

5 Hunter; *History of British India,* vol. II (1900), p. 165.

6 H. D. Love, *Vestiges of Old Madras,* vol. I, p. 62.

7 McLean—*Manual of the Administration of the Madras Presidency,* vol. I, p. 162.

The Governor or Agent was the First Member of the Council, the Book-Keeper was the second, and the Ware-House Keeper and the Customer were the other two members. The duties of the Customer were to receive customs, rents and other taxes; he also exercised magisterial functions. "His office has been continued uninterruptedly to the present day remaining now under the designation of the Collectorate of Madras and the Sea Customs."[8] The Council, consisting of four members, met every Monday and Tuesday at eight in the morning; it passed orders on all matters concerning the factories and the servants of the Company. The Secretary kept a diary of the proceedings and consultations; and a copy of it was sent to the Company each year, "together with a general letter reviewing the proceedings; while in reply a general letter was received each year from the Court of Directors." The diaries and letters have been preserved either in India or in England. The Members of Council were then designated as merchants, the others under them being graded as factors, writers, and apprentices. In addition to the mercantile establishment there was a chaplain on £100 a year, who read prayers daily and preached on Sundays, and also a school-master on £50 a year, who taught the children of the inhabitants of the White Town. "The ordinary administration of justice was, as above mentioned, conducted by the Collector of Customs, and as Magistrate in the Black Town he sat alone. Europeans were tried by the Governor and Council in the Fort with a jury of 12 Europeans. In the White Town the public peace was maintained by the Agent (Governor) as Commander of the Garrison. In the Black Town it was kept by an Indian public officer known as the Pedda Naick. In the early days of the settlement twenty Indian servants described as 'peons' sufficed to keep the peace. Subsequently however the number was increased to fifty. In return for such service the Pedda Naick was granted certain rice fields rent free, as also petty duties on rice, fish, oil and betel-nut. The office of Pedda Naick was hereditary."[9]

In 1661 Sir Edward Winter, a member of the then triumphant Cavalier Party, was appointed Governor. He quarrelled with his Council, alienated the native powers and consequently produced a set-back in trade. In 1665 he was superseded on the ground that he had indulged in too much private trade, and made second in Council, while one Mr. George Foxcroft, a London merchant, was made Governor. The latter quickly discovered that Winter was indebted to the Company in several matters and asked him awkward questions regarding them. Winter resolved on the bold expedient of usurping the Governorship. "It was not difficult for an ardent Royalist (like Winter) to discover a pretext where a Puritan (as Foxcroft was) whose sympathies had been till lately Cromwellian, was concerned." He alleged that the language of the new Governor was treasonable to the English Crown, and with the aid of the Commander of the Garrison and other friends, he arrested and imprisoned Foxcroft and himself assumed the Governorship. "From this time Sir Edward Winter found himself in a situation, which, if loyal to the Crown, was decidedly mutinous with reference to the Directors. It is not known that any trade was carried on for the benefit of England, and it was only in 1668, when Mr. Foxcroft had been detained for over two years as a prisoner, that he yielded to a royal mandate sent out by Commissioners specially appointed for the investigation of the matter. Mr. Foxcroft was now restored and Sir Edward Winter retired to Pulicat and other places. The Directors in 1669 sent out Sir William Langhorne with six commissioners to investigate the whole of this transaction; and their report

8 *Manual of the Madras Presidency*, vol. I (*General and Political*), p. 164. In 1870 the Madras district was separated from the Chingleput district and placed under the same officer as the Sea-Customs, with the designation of Collector of Madras and Sea Customs. The Collector has been since relieved of his charge of sea-customs.

9 *Madras Manual*, vol. I, p. 162. In February 1651 the Company presented a petition to the Council of State in England, praying that as they had long been without proper authority to enforce obedience in the English subjects within their limits, powers might be given under the Great Seal to them and to their Presidents and Councils in India to enforce obedience on all Englishmen in their limits according to English law. See *Charters relating to the East India Company*, 1600-1761, by J. Shaw, (1887), p. v.

disclosing more difficulties in the situation than had been supposed by the Directors, the latter abandoned proceedings, recalling however both the parties." In these few words Mr. McLean describes "the most remarkable incident that has occurred in the constitutional history of any Indian settlement, for during three years the Madras station was in fact a private station appertaining to Sir Edward Winter and the Directors were powerless to recover it until they had obtained the royal assistance. The effects of the incident on the political situation are not recorded; but it is probable that the Directors would have lost nothing if they had supported their Agent in the first instance."[10]

The Directors were long unaware of the revolution at Madras. They even sent Foxcroft in 1666 a fresh commission constituting him Governor (with the King's special authority) with power to try persons charged with capital offences. But this was unheeded by Winter; and the Directors came to know of the revolution only in January 1667 by way of Aleppo from George Oxinden, President of Surat, for the Madras despatches of September and October 1665 were held back by Winter. They at once presented a petition to the King, who directed the Lord Chancellor Clarendon and Lord Arlington to investigate the matter. It was only in December of that year that a Commission was issued for the reduction of Winter and the restoration of Foxcroft. After the latter was restored to the Governorship, Winter continued to reside at Madras, in the White Town; and he became "an object of some anxiety to Government" till his final departure to England in 1672.

Colonel Love remarks, "Foxcroft (who was President till 1672) was the first Agent to be created Governor of Fort St. George, a title which was transmitted to a long line of distinguished successors. To modern occupants of the gubernatorial chair it is probably unknown that they owe their designation to a Madras murder. Such is the fact."[11] In order to understand this it is necessary to trace in brief outline the nature of the powers granted by successive charters to the Agent and Council of Madras. The charters obtained from Queen Elizabeth and King James of 1600 and 1609, 1611 and 1622, conferred no privileges except the exclusive trade to the East Indies, which was an exceptional privilege in the light of the political economy of the times.[12] The next important charter after the famous one (of 1657) of Cromwell was granted by Charles II in April 1661, and according to this the Company were given power and command over their fortresses and were authorised to appoint Governors and other officers for their government. "The Governor and Council of each factory were empowered to judge all persons belonging to the said Governor and Company or that shall be under them, in all causes whether civil or criminal according to the laws of this kingdom and execute judgment accordingly." And the Chief Factor and Council of any place for which there was no Governor were empowered to send offenders for punishment either to a place where there was a Governor and Council or to England."[13] The Company were also empowered to send ships of war for their factories, to choose officers by commission under their common seal, to erect fortifications and to seize unlicensed persons and punish persons in their employment, to govern their factories by martial law and to make peace or war with any non-Christian power.

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10 Compare the arrest and imprisonment of a later Governor of Madras, Lord Pigot, by his Council, and Kiegwin's rebellion in Bombay.

11 *Vestiges of Old Madras*, vol. I, p. 271.

12 Section 9 of the Act against Monopolies (21, James I, c. 3.) expressly provided that any Company or Society of Merchants which had been erected for the maintenance, enlargement or ordering of any trade of merchandise should retain all legal privileges. That the East India Company's right was a legal privilege was decided by the Court of King's Bench in the Case of the East India Company *vs.* Sands, better known as the Great Case of Monopolies.

13 C. P. Ilbert, *The Government of India* (3rd ed.), p. 16.

Prior to the issue of this charter, the Agent and Council very probably possessed no judicial authority over the inhabitants " but such as was derived from the native suzerain." Justice towards natives and towards European subjects of foreign powers was administered in that way. Offences by British subjects were dealt with by the Agent in Council.

When the case of the murder of an Indian slave-girl by her European mistress was referred by the Agent and Council to the Directors, they resolved that, under the authority given by the Charter of 1661, the Agent at Fort St. George should be created Governor with power to try this and similar cases. This despatch reached Madras during the Governorship of Winter; but as it was intended for Foxcroft, the latter may be fitly regarded as the first of the Governors.[14] Foxcroft insisted, much against the will of the Nawâb of the neighbourhood, on himself controlling the Indian population. The acceptance of a *Havildar* or Indian Governor of the town was, he maintained, an " infraction of his authorised privileges."

Sir William Langhorne's Governorship lasted six years (1672-78) and was marked by (1) Nawâb Neknâm Khân's confirmatory grant of the territory and privileges which Foxcroft could not obtain; (2) by the beginning of the series of *Public Consultations*, which became regular from 1678—there being one volume for each year and each containing the lists of civil servants, the free merchants and the unmarried ladies, and the public letters to England, already referred to, being available from 1698; and (3) by the danger of the French occupation of San Thomé, which once made Langhorne entertain the idea of abandoning Madras altogether and which led to the strengthening of the fortifications of the settlement.

Governor Streynsham Master (1678-81) was an old servant of the Company and had gallantly participated in the defence of Surat against Śivâjî. He had been for some time Agent at Masulipatam and Second in the Council of Madras; and he began his rule as Governor by framing regulations for the proper administration of justice. He reorganised the Choultry Court, which had been long held at the Choultry, or Town House, where justice was administered to the Indian inhabitants by persons, either Indians or Europeans, appointed by the Governor. He increased the number of Choultry Justices to three, of whom two at least should sit for the trial of causes and the registration of bills of sale of land and other property. They should sit every Tuesday and Friday in the Choultry to do the common justice of the town as usual and take care that " the Scrivener of the Choultry duly registered all sentences in Portuguese and that an exact register was kept of all alienations or sales of slaves, houses, gardens, boats, ships, etc., the Company's dues for the same to be received by the customs......The Purser-General or Pay-Master to take charge of the concerns of deceased men and to keep a book for registering wills and testaments and inventories of deceased persons and also to keep a register of births, christenings, marriages, burials of all English men and women within the town."[15]

Master also established a Superior Court for the trial by jury of civil and criminal offences by virtue of the powers granted by the charter of 1661. According to his scheme the Governor and Council were to sit in the chapel in the Fort every Wednesday and Saturday for the trial of causes according to English laws. The Choultry Justices and the officers under them were to execute all orders, writs, and summons for the returning of juries, execution of judgment, apprehension of criminals, etc. The court was to have the assistance of a clerk, an officer and a marshal.[16] This court was not intended to supersede the Justices of the Choultry, who were to decide all small misdemeanours, breaches of the peace and civil actions for debt not exceeding 50 pagodas. The decision to constitute this court of judicature was due in part to the difficulty experienced in dealing with criminal matters. This court was superseded in 1684 by an Admiralty Court presided over by a Judge-Advocate from England.

14 Love, *op. cit.*, vol. I.

15 Shaw—*Charters relating to the East India Company*, p. VII, quoted by H. D. Love (*Vestiges*; vol. I, pp. 404-06).

16 *Public Consultations*, 18th March, 1678.

By a charter of 1683 the Company were given full power to declare and make war and peace with heathen nations, to raise and keep military forces and to exercise martial law in their jurisdiction. The same charter established a court of judicature presided over by a civil judge and two assistants, with power to hear and determine all cases of forfeiture of ships or goods trading contrary to the charter and also all mercantile and maritime cases, including injuries and wrongs done on the high seas, "according to the rules of equity and good conscience, and according to the laws and customes of merchants." A Judge-Advocate was sent to Surat, and it was provided that the President at Madras should supply the place of Judge-Advocate till one should arrive.[17] Thus the old Court of Judicature continued. The Court of Admiralty was established in 1686, its judge and his two assistants being Members of Council and civil servants of the Company. But the Justices of the Peace were not interfered with. Later a Judge-Advocate was appointed from England, who was made third in Council and was appointed to preside at the Quarter Sessions. Courts-martial were also proclaimed under the authority of the charter. The Governor usually presided at the trial of pirates; but occasionally the Judge-Advocate sat for such trials.

James II delegated to the East India Company the power of establishing by charter a municipality at Madras, and this charter was issued by the Company under their own seal under the authority of the charters of 1661 and 1683 of Charles II and of 1686 of James II. According to this Company's charter, a Municipality and Mayor's Court were established at Madras. The municipality was to consist of a mayor, 12 aldermen and 60 or more burgesses. The Mayor was to hold office for a year, the aldermen for their lives or during their residence in Madras. The charter further nominated 29 free merchants as burgesses. The new mayor was to be elected from the aldermen annually; vacancies among the aldermen were to be filled up by election from among the burgesses; and three of them were always to be covenanted servants.

The Municipality and the Mayor's Court were created by the Company's charter, because, as the Governor of the Court of Directors observed, "the wind of the extraordinary honour in their heads would probably render them so haughty and over-bearing that the Company would be forced to remove them." He had evidently in mind the recent differences between Sir John Child, the Governor of Bombay, and Dr. St. John, who was appointed judge of the court at Surat by Royal Commission from the Company; and he "was alive to the dangers arising from an independent judiciary which in the next century were to bring about the conflicts between Warren Hastings and the Calcutta Supreme Court."

The creation of the Municipal Corporation was to be supplemented with the usual ornamental trappings. The mayor and aldermen were to have the honour and privilege of having *rundelloes* (umbrellas) and *kattysols* (parasols) borne over them; they could ride on horse-back in the same order as was used by the mayor and aldermen of London: they were to wear scarlet serge gowns all made after one form or fashion "such as shall be thought most convenient for the hot country"; and the burgesses were to wear on solemn occasions white *pelongs* or other silk gowns.

The burgesses were to be elected by the mayor and aldermen, and were not to exceed 120 in number. The mayor and aldermen were to be a Court of Record for the town; and the mayor and the three senior aldermen were also to be justices of the peace. The Mayor's Court could try all cases, civil and criminal. There was to be an appeal from it in civil cases only when the value of the award exceeded three pagodas, and in criminal cases when the offender was sentenced to lose life or limb. It could inflict fines, corporal punishment and imprisonment. Mr. Nathaniel Higginson, a future Governor, was the first mayor: he was succeeded by Mr. Littleton.

[17] *Public Consultations*, 7th July, 1684.

The Mayor's Court was to have a Recorder, being an English-born covenanted servant of the Company. Sir John Biggs, the Judge-Advocate, was to be the first Recorder.[18] When he died in 1689, the Court of Admiralty, which was also called the Supreme Court, was declared extinct. According to the charter there was a right of appeal from the Mayor's Court to the Court of Admiralty. Now the Mayor's Court declared that their own decisions were final. The mayor and some of the aldermen were members of Council, and they quarrelled over this with Governor Yale, who thought differently and countermanded some of the sentences of the Mayor's Court.

Thus the Government resolved to erect a new court of judicature consisting of a Judge Advocate and four judges. The Governor was to act as Judge-Advocate, pending an appointment from England. Of the four judges, one was to be an Armenian merchant, who was to enquire into causes concerning his own community and other foreigners. Another was to be the Company's chief merchant, Allingall (Alangatha) Pillai, the builder of the Ekambareśvarar Pagoda, who was to appear for "the Natives, as well *Gentues, Moores, and Mallabars*."[19] There was to be an Attorney-General for this court, which lasted on till 1692, when the Company sent out a new Judge-Advocate.

The Choultry justices continued all this time; they were magistrates, and the senior among them was called the Chief Justice. The aldermen of the Corporation sat also as justices at the Choultry. Subsequently when their work at the Mayor's Court increased special Choultry justices had to be nominated.

In 1692 the Supreme Court of Judicature was revived as the Company sent out a new Judge-Advocate from England; later he was removed from office, and the Company decided that the post of Judge-Advocate should be filled by members of Council in succession. The Supreme Court inflicted sentences of death, whipping, pillory, etc. Several examples of these punishments are given by Mr. Love.[20]

The mayor and aldermen were empowered to levy taxes for the building of a town-hall, a public jail and a convenient school house, where native children might be taught to speak, read, and write the English tongue, as well as arithmetic and accounting. They were also empowered to build sewers and to regulate the paving of streets and lanes. The Council, in a Consultation of the 12th August 1689, assigned to them the existing petty taxes of paddy toll, measurers and weighers' duty and brokerage. Government frequently complained that the revenues had not been applied to their proper purposes by the Corporation, and desired in January 1692 that most of the aldermen should consist of the heads of the several foreign castes, *viz.*, one Armenian, one or two Hebrews, one or two Portuguese, "and one or two Gentues and one Moore if you have a sufficient number of that caste which have their proper head or chief."

Regarding this power of taxation it may be noted that the Directors had long been pressing upon the Government of Madras the necessity of raising a quit-rent from all the householders, both native and European, in order to defray their yearly charges for repairs and fortifications. Governor Master raised a tax of this sort for the purpose of improving the sanitation of the Black Town. His successor annulled the tax in response to a petition of the inhabitants demanding its abolition. Master, making thus the first attempt at the conservancy of the town, created the office of Scavenger, who was also later entrusted with the duty of collecting the ground-rents. "The duty of Scavenger was to collect the cash and not the dirt; and for nearly a century the double appointment was held by a civil servant of a high degree........His duties were directly connected with the supervision of the

18 The Court of Admiralty, by fusion with the Recorder's Court created in 1796, became in 1801 the first Supreme Court appointed by the Crown; and the latter by fusion with the East India Company's Sudder Court became in 1862 the present High Court. (*Madras Manual*, vol. I, p. 167.)

19 *Public Consultations*, 16th June, 1690.

20 *Op. cit.*, vol. I, pp. 496-97.

cleansing of the streets, though it might be a shock to us that the office was filled by a senior Civilian."[21]

It was the Directors that again and again repeated the necessity of taxing the inhabitants in some way or other; and Gyfford, the successor of Master, after all decided to impose a monthly tax upon all the inhabitants. The heads of the castes were consulted, and finally they agreed to pay nine fanams annually for every large house, six fanams for every small house and three fanams for every little round house.[22] The promised tax was not, however, enforced or collected till 1686, when the Directors sent peremptory orders for its collection. There was a tumult among the people, which was answered by the calling out of the military. The heads of castes refused to comply with the order, but being threatened with banishment, finally complied.

After the establishment of the Corporation directions were given to increase the quit-rents and to impose a duty on licenses of public-houses. Government insisted that the Corporation should find other means of support than the Company's revenues. The land and sea customs were separated. Both were 3 per cent. *ad valorem*, exclusive of small dues to the Pedda Naick. For some time the duty was reduced to 2½ per cent. for all free Englishmen, the rate of 3 per cent. being retained for the Portuguese and Indians. The Directors disapproved of this discrimination; and in 1688 a uniform duty of 5 per cent. was fixed for all, goods exported being exempted. There was also the town brokerage on bargains between buyers and sellers, half of which went to Government, and later on to the Corporation. The quit-rent and Scavenger's duty were for a time transferred to the Corporation in order to enable it to wipe off the debt it had contracted for the building of the town hall.

A word as to the existence of slavery may not be out of place. Slaves used for domestic purposes were always recognized in Madras. Their sale or purchase had to be registered at the Choultry Court. The stealing of children was strongly condemned. The export of slaves was absolutely prohibited in 1683, but it was allowed later on, under regulation and on the payment of one pagoda per slave exported by sea. Slaves were also purchased for the use of the Company. The stealing of children for the purpose of selling them as slaves was always a crying evil, and after some time in 1689 the export of slaves was altogether prohibited, "in deference," be it noted, "to the aversion of the Mughal power to the trade."

In the time of Governor Macrae (1725-30) the Mayor's Court was reorganised by virtue of a charter granted in 1726 for "establishing or reconstituting the municipalities at Madras, Bombay, and Calcutta and setting up or remodelling Mayor's and other courts in each of these Presidencies." The mayor and the aldermen were to constitute a Mayor's Court with civil jurisdiction, subject to an appeal to the Governor or President in Council and a further appeal in more important cases to the King-in-Council. The Mayor's Court now also granted probates, and exercised testamentary jurisdiction. The Governor, or President, and the 5 senior Members of Council were to be justices of the peace, and were to hold quarter-sessions four times in the year, with jurisdiction over all offences except high treason. At the same time the Company were authorised, as in previous charters, to "appoint generals and other military officers with power to excercise the inhabitants in arms, to repel force by force and to exercise martial law in times of war.[23] The President and Council were also to be a court of appeal from the jurisdiction of the Mayor's Court, while a Court by Requests or a

[21] Love—*Op. cit.*, vol. I, p. 442. See also *Hobson-Jobson* (Yule and Burnell), revised edition, p. 802, which explains the officer as the collector of duties on goods, deriving it from *scavage* (inspection of the opening of the imported goods). The Consultation quoted by Love clearly says that the Scavenger was to collect the rate and hire men to carry away the dirt and filth.

[22] 42 fanams made one star pagoda, and a fanam was equal to 2*d*. English money.

[23] C. P. Ilbert, *The Government of India*, 3rd Edition, p. 32; and Talboys Wheeler, *Madras in the Olden Time* (1882), p. 465.

Court of Conscience was instituted for the decision by summary procedure of pecuniary questions of inconsiderable amount.

Thursday, the 17th August 1727, was the day when the new mayor and aldermen were sworn in at the Company's Garden House in Pedda Naickan Pettah, where the President and Council were met to receive them, the mayor and aldermen proceeding from the parade-ground in the Fort through the old Black Town to the Company's Garden on horseback, with guards, peons and country music. Soon afterwards the President and five senior councillors constituted themselves into a Court of Appeal and a Court of Oyer and Terminer and Gaol Delivery; while the five justices of the peace appointed by the Royal Charter were also appointed Justices of the Choultry to decide small debts not exceeding 20 pagodas. It was found inconvenient that an appeal from the Justices of the Choultry, who were also members of the superior court, should lie to the Mayor's Court, and so the Sheriff was constituted a court (*Consultation* of 27th November 1727) to decide all petty cases, without appeal as far as five pagodas, and as far as 20 pagodas on allowing the parties the liberty of appealing to the Mayor's Court. The register of slaves was to be kept by the Sheriff in the place of the Justices of the Choultry, as well as the register of sales and mortgages of houses. The justices of the peace were to take cognizance of all petty breaches of the peace, larceny, etc., for lesser offences they were to inflict corporal punishment, and for others they were to bind over the accused to the Sessions or to the Choultry. The Register's fees at the Mayor's Court were also notified.

Owing to the capture and occupation of Madras by the French (1746-49) the continuity of the Municipal Corporation and the Mayor's Court was destroyed, and the charter of 1726 was surrendered. A fresh charter was issued in 1753, which exempted from the jurisdiction of the Mayor's Court "all suits and actions between Indian Natives only," and directed that all these suits were to be determined among themselves, unless both parties agreed to submit them to the Mayor's Court. This new charter (issued on the 8th January 1753) provided for the revival of the mayor and the aldermen. Seven of the nine aldermen were to be natural born subjects of the King, and only two could be foreign protestants. The aldermen were to continue in office for life, and from among them two were to be elected annually by the Corporation, one of whom was to be chosen as the mayor by the Governor in Council. The mayor and aldermen were to form a Court of Record for civil suits, not being between Indians arising in Madras and its subordinate factories. Appeals from decrees up to 1000 pagodas were to lie to the President and Council, while in judgments for larger sums an appeal might be made to the King-in-Council. There was to be a Court of Requests for the summary decision of petty civil suits by Commissioners appointed by Government. The President and Members of Council were to be the justices of the peace for Madras and the subordinate factories, to hold Quarter-Sessions and Oyer and Terminer and General Gaol Delivery and to be a Court of Record dealing with all offences excepting high treason. The mode of trial was to follow English practice, and the Sheriff was to summon persons to serve as Grand and Petit Jury.

Thus the earliest Madras courts worked under the authority of the charters of Charles II and the earlier charters which might be construed as giving judicial powers. Up till 1678 the arrangements in Madras for the administration of justice appear from the rules and regulations made by Governor Master and his Council in January 1678. The first Supreme Court was established in March, 1678, in the person of the Governor and Council, sitting to hear causes, but not superseding the justices of the Choultry, who still decided on small misdemeanours and actions for debt. An Admiralty Court, with a Judge-Advocate from England, was established by virtue of the charter of 1683 and by the Directors' despatch of the 7th

January 1687. This is the forerunner of the present High Court.[24] The first Mayor's Court was established in the same year, with an appeal to the Court of Admiralty. A Recorder was also appointed to be an assistant to the Mayor. The Admiralty Court was soon afterwards superseded, for certain reasons, by the Governor and Council as a court of appeal from the Mayor's Court. The new Mayor's Court created by the charter of 1726 was a Court of Record from which an appeal lay to the Governor and Council, who were constituted justices of the peace and Court of Oyer, Terminer and Gaol Delivery. The Court of Directors sent out with the charter of 1726 a Book of Instructions with respect to the method of proceeding in all actions and suits, civil and criminal, and also the forms of the oaths to be taken. It was probably in this Book of Instructions that the doctrine was laid down that by the charter of 1726 all Common and Statute Law at that time extant in England was introduced into the Indian Presidencies, and that all the Parliamentary enactments passed since that period were excluded unless their extension to India was specially declared. The charter of 1753 re-created the Mayor's Courts with some not very material alterations, but excluding suits between Indians unless entertained with their consent. The jurisdiction of the Government courts in criminal matters was also limited to offences committed within the Presidency and the factories subordinate thereto. Later the arrangements made by Warren Hastings, known as the Adalat scheme, were applied to the Madras territories.

In the Government itself power was vested in a majority of the Council. From the time of Foxcroft the Council, which was nebulous till then, came to take definite shape, and it met with considerable regularity. The Governor had certain ill-defined separate powers as the commander of the garrison. The Council usually consisted of 5 or 6 members at first. The Governor was Treasurer : the second member was Accountant ; other members managed the import and export warehouses, the customs and the mint ; the youngest member of the Council was the Scavenger. The Council, till the establishment of the Recorder's Court in 1797, formed a tribunal for both civil and criminal justice. The French wars and political complications, which increased from about 1745, led to the increase of the councillors to ten, which became the number of the Council in the second Governorship of Pigot. A Select Committee was created within the Council to deal with military and political matters and to ensure secrecy. The first Select Committee was formed in 1752. A second was appointed by the Directors in 1754, with greater powers, which lasted till 1758. There was a third Select Committee to deal with the First Mysore War and the Nawâb's debts, which lasted till 1775. A fourth committee was created in 1778 to deal with all military, political, naval, and secret affairs.

It was only in 1785 that the secret of the situation was discovered and Government was reduced to the President and three Members of Council. In 1786 boards were formed under Government—the Board of Revenue, the Military Board, the Board of Trade, the Hospital Board and the Marine Board, which managed the various departments and were the channels of communication for the orders of Government, whose members ceased to be direct administrative officers.[25]

From December 1750[26] matters of a secret nature, whether military or political, began to be kept apart from the rest, under the title of "Extraordinary Occurrences and Consultations," described in the Madras Records Office as 'Military Consultations.' From September 1754 the transactions with the country powers were carried on by a committee consisting

[24] "In Fort St. George justice was administered by the Agent and his Council or by the justices appointed by them. A Court of Admiralty was created in 1686, and a Mayor's Court in 1688. The latter was absorbed into a Recorder's Court, established in 1798, and this in turn was superseded by a Supreme Court of Judicature three years later. For suits between Indians, there were besides (under Warren Hastings' scheme) district courts for civil suits and courts of circuit for criminal cases, a Sadr Adalat for civil, and a Faujdari Adalat for criminal appeals, the functions of which were in 1862 merged in those of a new High Court."—Foster, *Guide to the India Office Records*, p. 80—see also Love, *Vestiges*, vol. III, pp. 479-80.

[25] Dodwell—*Report on the Madras Records* (1911), pp. I to III.

[26] Foster—*A Guide to the India Office Records* (1919), pp. 74-80.

of the Governor and four members of his Council. There were occasional consultations of the whole Council on matters of special importance. This committee continued until 1758 under the altered title of "Select Committee for transacting Country Affairs." During Lally's siege of Madras (December 1758 to February 1759) the government was committed to Governor Pigot and Major Stringer Lawrence. As soon as normal government was restored, secret matters began to be dealt with by the whole board in their secret department. In 1761 the Directors ordered the reappointment of a Select Committee for affairs requiring special secrecy, consisting of the Governor and four councillors, but presumably the Council reverted at once to the practice of dealing with all secret matters in the Military and Secret Department. In 1769 the Directors directed the formation of a Select Committee to deal with political questions and military operations. That body remained in existence till 1775, their proceedings running side by side with the Military and Secret Consultations of the whole Board.

In 1778 the Directors appointed a fresh Select Committee consisting of the Governor, Commander-in-Chief and two members. This continued till the 12th February 1785, when the new form of government prescribed by the Act of 1784 came into force.

In 1786 the Directors ordered a Military Board, a Board of Revenue, and a Board of Trade to be established, and in 1800 a Marine Board was started. As early as 1774 we find the revenue consultations being separated from the others, and there was a Committee of Assigned Revenue for the collection of all the Nawâb's revenues. This continued till 1790, when the Board of Revenue was directed also to act as the Board of Assigned Revenue.